

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Kerry W. McBroom,)	
)	C/A No. 4:15-4087-MBS
Plaintiff,)	
)	
vs.)	
)	ORDER
Nancy A. Berryhill, Acting Commissioner)	
of Social Security,)	
)	
Defendant.)	
_____)	

Plaintiff Kerry W. McBroom filed the within action on October 2, 2015, seeking judicial review of a final decision of Defendant Acting Commissioner of Social Security denying Plaintiff's claims for a period of disability and disability insurance benefits.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Thomas E. Rogers, III for pretrial handling. On January 19, 2017, the Magistrate Judge issued a Report and Recommendation in which he recommended that the case be remanded for the ALJ to evaluate the opinions of the treating physicians under a proper application of the Treating Physician Rule and regulatory standards. The Magistrate Judge further recommended that the ALJ consider any impact the proper application of the Treating Physician Rule has on the Step Three analysis, the determination of Plaintiff's residual functional capacity; and on the availability of work for Plaintiff in the national economy at Step Five. On January 25, 2017, the Commissioner filed a Notice of Not Filing Objections to the Report and Recommendation of the Magistrate Judge. Plaintiff informs the court that he does not intend to file objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of any portions of the Report and Recommendation to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has carefully reviewed the record and concurs in the recommendation of the Magistrate Judge. The court adopts the Report and Recommendation and incorporates it herein by reference. The case is **reversed** pursuant to sentence four of 42 U.S.C. § 405(g) and **remanded** to the Commissioner for further consideration as set forth herein and in the Report and Recommendation.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
Senior United States District Judge

Columbia, South Carolina

January 30, 2017